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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,892	01/24/2006	William David Lewis	024774556	7925
24978	7590	02/12/2007		
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			EXAMINER O HERN, BRENT T	
			ART UNIT	PAPER NUMBER
			1772	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/12/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/565,892

Applicant(s)

LEWIS ET AL.

Examiner

Brent T. O'Hern

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-60 is/are pending in the application.
- 4a) Of the above claim(s) 58-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-57 is/are rejected.
- 7) ☒ Claim(s) 46-48 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 41-57, in the reply filed on 3 January 2007 is acknowledged. The traversal is on the ground(s) that the International Searching Authority determined that the method and product do not lack unity of invention and method claim #58 discloses the product claim #1. Firstly, this is not found persuasive because the any decision in the International Searching Authority is not binding on this case. Secondly, the inventions at issue in the PCT case are not identical to the inventions at issue in this U.S. case. Thirdly, Applicant has cancelled claim #1, thus Applicant's argument is not germane. Fourthly, the product disclosed in independent claim #41 is not identical to the product disclosed in method claim #58. Fifthly, claim #41 is also either obvious or anticipated by Nemiroff (US 3,614,793).

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

2. Claims 46-48 are objected to because of the following informalities: claims 46-48 comprise the **abbreviation ABS** instead of the unabbreviated text. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 45-47, 49-51 and 56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term **“of softer material”** in claim 45, line 2 is a relative term which renders the claim indefinite. The term “of softer material” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. A person having ordinary skill in the art may interpret the material as being softer while another person may interpret the material as being harder. Furthermore, it is unclear what material is the basis material for being softer than.

Claim 47 recites the limitation **“the ratio”** in lines 1-2, **“the ABS layer”** in line 2 and **“the acrylic layer”** in line 2. There is **insufficient antecedent basis** for these limitations in the claim. Furthermore, it is unclear what are the ABS and acrylic layers.

The phrase **“conforms to desired variations in thickness”** in claim 49, line 2 is vague and indefinite since it is unclear what structural limitation applicant is attempting to claim.

Claim 50 recites the limitation **“the underside”** in line 2. There is **insufficient antecedent basis** for this limitation in the claim.

The phrase **“wherein the legs are an interference push-fit into the sockets”** in claim 51, lines 1-2 is vague and indefinite since it is unclear whether

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“interference push-fit” is a phrase describing something as interfering with something else, something is being pushed to fit, or some other meaning.

Claim 56 recites the limitation “**said filler material**” in line 2. There is **insufficient antecedent basis** for this limitation in the claim.

Clarification and/or correction is required.

Claim Rejections - 35 USC § 102

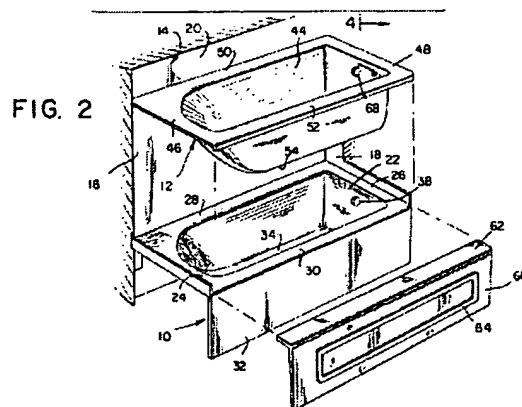
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

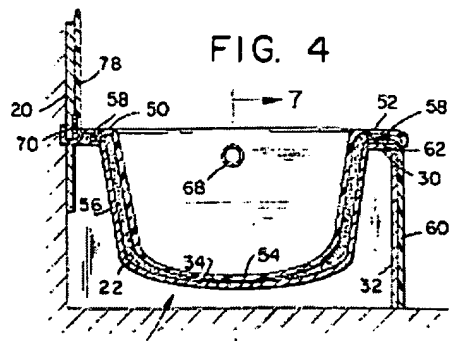
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 41-42 and 44-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Altman et al. (US 4,067,071).

Regarding claims 41 and 52-56, Altman ('071) teaches a composite article having an upper member of plastics material (*col. 4, ll. 3-7 and FIG-2, #12*) and a lower member of plastics material that together form an outer shell (*FIG-2, #60, #10 and col. 7, ll. 3-5*), and an inner core of filler within the shell (*FIG-4, #56*).





The phrases **“wherein said upper and lower members are provided with means to aid locating said members relative to one another during moulding of said core”** in claim 52, lines 1-3, **“wherein said locating means comprise co-operating formations on said upper and lower members”** in claim 53, lines 1-2, **“wherein said co-operating formations are configured to provide a hole in a base wall of the article”** in claim 54, lines 1-2, **“wherein said lower member is provided with means to release air trapped between said members during moulding of said core”** in claim 55, lines 1-3, and **“wherein said lower member is provided with means to assist distribution of said filler material between said members during moulding of said core”** in claim 56, lines 1-3 are **process limitations** in a product claim and hence not given any patentable weight since patentability of a product does not depend on its method of production (*see MPEP § 2173.05(p)*).

Regarding claim 42, Altman ('071) teaches wherein said filler is a composite resin-stone mix (*col. 5, l. 58 to col. 6, l. 4*).

Regarding claims 44-45, Altman ('071) teaches wherein the upper member has an outer layer of hardwearing, scratch resistant material (*col. 4, ll. 12-23*).

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The phrase “**for absorbing impacts occurring during use of the article**” in claim 45, lines 2-3 is not given any patentable weight since the applicant is introducing **use** limitations into the product claims (*see MPEP 2173 (q)*).

Regarding claims 46-47, Altman ('071) teaches wherein the upper member is an acrylic capped acrylonitrile butadiene styrene material (*col. 4, ll. 12-23*).

Regarding claim 48, Altman ('071) teaches wherein the lower member is made of acrylonitrile butadiene styrene (*col. 4, ll. 12-23*).

Regarding claim 49, Altman ('071) teaches wherein the lower member has a shape (*FIG-4, #60 and #10*).

Regarding claims 50-51, Altman ('071) teaches wherein sockets are provided in the underside of said lower member for receiving legs for raising the article above a surface on which it is installed (*FIG-4, #32 and #20 and FIG-7, #40*).

Regarding claim 57, Altman ('071) teaches wherein said lower member is provided with an array of interlinked recessed regions that allow said filler material to flow freely between said members (*FIG-4, recession #56 between the members*).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to

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be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Altman et al. (US 4,067,071) in view of Swanson (US 4,414,385).

Altman ('071) teaches wherein said resin-stone mix comprises a mixture of limestone, calcium carbonate and a catalyst (*See col. 5, l. 55 to col. 6, l. 10 and col. 4, ll. 39-55.*), however, fails to expressly disclose wherein the resin is dicyclopentadiene.

However, Swanson ('385) discloses wherein the resin is dicyclopentadiene (*col. 1, ll. 51-58*) for the purpose of providing a material with superior resistance to chemical attack (*col. 1, ll. 49-50*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to provide an article with a dicyclopentadiene resin as taught by Swanson ('385) in Altman ('071) in order to provide a material with superior resistance to chemical attack.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571) 272-0496. The examiner can normally be reached on M-F, 9:00-5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-2172. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Brent T O'Hern
Examiner
Art Unit 1772
January 30, 2007



NASSER AHMAD
PRIMARY EXAMINER

2/6/07